IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA:

CWP.No. 66/2003.

Date of Decision :17.5.2007.

Jagdish Chand. …Petitioner.

Versus:

Director Consolidation of Holdidings & another. Respondents.

Coram:

The Hon'ble Mr.Justice Sanjay Karol, Judge.

Whether approved for reporting?[1]

For the petitioner: Mr.Surinder Saklani.Advocate.

For Respondent-1. Mr.C.B.Singh, Dy.Advocate General.

For Respondent-2. Mr.N.K.Thakur, Advocate.

Sanjay Karol, J (Oral).

The learned counsel for the parties agree that the order dated 10th October, 2002 passed in Case No.153/96 titled as Jagdish Chand Vs. Rawan needs to be set aside in view of the law laid down by this Court in *Amar Nath and another Vs. State of H.P. and others*,2002 (1) Shim.L.C. 236 and the matter needs to be remanded back to the Director Consolidation for hearing on merits. . The learned counsels for the parties agree that the petitioner shall confine itself only to the grounds raised by him in his petition filed under Section 54 of the H.P.Holdings (consolidation and Prevention of Fragmentation) Act, 1971 (hereinafter referred to as the Act). The parties

[1] **Whether reporters of Local Papers may be allowed to see the judgment?**

further agree that if subsequent to the filing of the said petition, certain rights have crystallized inter se between the parties, it shall not open for them to challenge the same in the said petition.

Mr.Thakur, learned counsel for the private respondent submits that the order passed by the Settlement Officer dated 26th Febraury, 1996 has not been assailed by the petitioner at any point of time. He further submits that the order dated 26th February, 1996 (Annexure:P-2/E) has crystallized the rights of the parties and is not subject matter of challenge, either before the Director, Consolidation of Holdings or before this Court and therefore the same cannot be questioned at all. If the petitioner has chosen not to assail the same it will at his own peril.

Therefore, the order dated 10th October, 2002 is set aside and the matter is remanded back to the Director, Consolidation of Holdings,H.P. who shall, after giving reasonable opportunity to the parties, decide the same by passing a speaking order, within a period of four months from today. While deciding the same, he shall keep in view the statements recorded herein-above. The writ petition is accordingly disposed of.

The parties through their learned counsel are directed to appear before the Director Consolidation of Holdings, H.P. on 15th June, 2007.

(Sanjay Karol),
Judge.

May 17, 2007(R)